

# **JOURNAL OF THE SENATE**

## **EIGHTY-SEVENTH SESSION**

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TWENTY-SIXTH DAY

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STATE OF SOUTH DAKOTA  
Senate Chamber, Pierre  
Thursday, February 23, 2012

The Senate convened at 2:00 p.m., pursuant to adjournment, the President presiding.

The prayer was offered by the Chaplain, Fr. Michael Griffin, followed by the Pledge of Allegiance led by Senate page Nick Reagan.

Roll Call: All members present except Sens. Cutler and Hundstad who were excused.

### **APPROVAL OF THE JOURNAL**

MR. PRESIDENT:

The Committee on Legislative Procedure respectfully reports that the Secretary of the Senate has had under consideration the Senate Journal of the twenty-fifth day.

All errors, typographical or otherwise, are duly marked in the temporary journal for correction.

And we hereby move the adoption of the report.

Respectfully submitted,  
Bob Gray, Chair

Which motion prevailed.

## REPORTS OF STANDING COMMITTEES

MR. PRESIDENT:

The Committee on Judiciary respectfully reports that it has had under consideration HB 1126 and 1273 and returns the same with the recommendation that said bills do pass.

Also MR. PRESIDENT:

The Committee on Judiciary respectfully reports that it has had under consideration HB 1052 and returns the same with the recommendation that said bill do pass and be placed on the consent calendar.

Also MR. PRESIDENT:

The Committee on Judiciary respectfully reports that it has had under consideration HB 1213 which was deferred to the 41<sup>st</sup> Legislative Day.

Respectfully submitted,  
Craig Tieszen, Chair

Also MR. PRESIDENT:

The Committee on Agriculture and Natural Resources respectfully reports that it has had under consideration HB 1198 and returns the same with the recommendation that said bill do pass.

Also MR. PRESIDENT:

The Committee on Agriculture and Natural Resources respectfully reports that it has had under consideration HB 1107 and returns the same with the recommendation that said bill do pass and be placed on the consent calendar.

Respectfully submitted,  
Shantel Krebs, Chair

1 Also MR. PRESIDENT:

2 The Committee on Appropriations respectfully reports that it has had under consideration  
3 HB 1269 and 1270 and returns the same with the recommendation that said bills do pass.

4 Respectfully submitted,  
5 Corey Brown, Chair

6 Also MR. PRESIDENT:

7 The Committee on Education respectfully reports that it has had under consideration  
8 HB 1234 and returns the same with the recommendation that said bill be amended as follows:

9 1234cp

10 On the previous amendment (1234cj) in Section 47, in the second to the last sentence,  
11 delete "may" and insert "need".

12 In the last sentence in Section 47, delete "additional process" and insert "continuing  
13 contract".

14 1234cj

15 On the House engrossed bill, delete everything after the enacting clause and insert:

16 "Section 1. That chapter 13-55 be amended by adding thereto a NEW SECTION to read  
17 as follows:

18 Beginning in the 2013-2014 academic year, there is hereby established the South Dakota  
19 critical teaching needs scholarship program. The purpose of the program is to encourage South  
20 Dakota's high school graduates to obtain their postsecondary education in South Dakota for  
21 teaching, to remain in the state upon completion of their education, and to contribute to the state  
22 and its citizens by working in a critical need teaching area.

23 Section 2. That chapter 13-55 be amended by adding thereto a NEW SECTION to read as  
24 follows:

25 The South Dakota critical teaching needs scholarship program shall be administered by the  
26 Critical Teaching Needs Scholarship Board which is hereby established. The board shall consist  
27 of five members appointed by the Governor for a term of five years, except that the initial  
28 appointments shall be for periods of one, two, three, four, and five years. A majority of the  
29 board shall be present either personally or by teleconference to constitute a quorum.

30 The Department of Education shall provide necessary support services to the board.

Section 3. That chapter 13-55 be amended by adding thereto a NEW SECTION to read as follows:

From the total pool of applicants, the Critical Teaching Needs Scholarship Board shall award no more than one hundred critical teaching needs scholarships for each academic year. The board shall award scholarships based on the requirements of sections 5 and 6 of this Act, the filling of critical teaching needs areas, and other academic and personal characteristics of each applicant as determined by the board. Notwithstanding the provisions of this section, if the board rescinds a scholarship that has been awarded, the board may award the amount of the rescinded scholarship to an alternate.

Section 4. That chapter 13-55 be amended by adding thereto a NEW SECTION to read as follows:

All accredited South Dakota public and nonpublic postsecondary institutions which offer a baccalaureate degree in elementary or secondary education are eligible to participate in the scholarship program. Each institution may choose whether to participate in the program and may limit the number of scholarship recipients the institution will accept in each academic year.

Section 5. That chapter 13-55 be amended by adding thereto a NEW SECTION to read as follows:

In order to be eligible for a critical teaching needs scholarship, a student shall:

- (1) Agree, in writing, to stay in South Dakota and work in a critical teaching needs area for five years after graduation from a participating postsecondary institution;
- (2) Agree, through a promissory note, that failure to abide by the provisions of subdivision (1) will result in the scholarship being converted into an interest bearing loan;
- (3) Attend a participating South Dakota postsecondary institution as an undergraduate junior or senior and be accepted in an elementary or secondary education program at the institution that will prepare the student to work in a critical need teaching area; and
- (4) Be a United States citizen or lawful permanent resident.

For purposes of subdivision (3), a junior is a student who has earned sixty credit hours prior to the beginning of the third year of instruction, and a senior is a student who has earned ninety credit hours prior to the fourth year of instruction.

A student is eligible to participate in the South Dakota critical teaching needs scholarship program for the equivalent of two academic years (four consecutive spring and fall terms) or until the attainment of a baccalaureate degree in elementary or secondary education in a critical teaching needs area, whichever comes first. However, the Critical Teaching Needs Scholarship Board may grant exceptions to the continuous enrollment requirements for good cause.

Scholarships are not provided for summer session students enrolled in traditional four year programs.

1 Section 6. That chapter 13-55 be amended by adding thereto a NEW SECTION to read as  
2 follows:

3 In addition to the eligibility criteria identified in section 5 of this Act, the Critical Teaching  
4 Needs Scholarship Board may require applicants to submit a written essay or other information  
5 by which to judge the academic and personal qualifications of the applicant.

6 Section 7. That chapter 13-55 be amended by adding thereto a NEW SECTION to read as  
7 follows:

8 The amount of the annual scholarship shall equal the tuition and generally applicable fees  
9 for thirty credit hours at a South Dakota public postsecondary institution as of July 1, 2013. The  
10 scholarship amount paid to a recipient attending a participating nonpublic postsecondary  
11 institution shall equal the amount paid to a recipient attending a public postsecondary  
12 institution.

13 One-half of the annual scholarship shall be paid to public postsecondary institutions on  
14 behalf of eligible students there enrolled or directly to eligible students enrolled at nonpublic  
15 postsecondary institutions at the beginning of the fall semester, and the other half shall be paid  
16 at the beginning of the spring semester.

17 If, in any year, the total funds available to fund the critical teaching needs scholarships are  
18 insufficient to permit each eligible recipient to receive the full amount provided in this section,  
19 the available moneys shall be prorated and distributed to each recipient in proportion to the  
20 entitlement contemplated by this section. The total amount of the scholarship may not exceed  
21 the amount stipulated in this section.

22 Section 8. That chapter 13-55 be amended by adding thereto a NEW SECTION to read as  
23 follows:

24 In order to maintain eligibility for the critical teaching needs scholarship program, a student  
25 shall:

- 26 (1) Maintain a cumulative 2.8 grade point average on a 4.0 scale. The student shall  
27 complete consecutive spring and fall terms in order to remain eligible for  
28 continuation of the scholarship program from term to term;
- 29 (2) Make satisfactory academic progress towards a degree by earning thirty credit hours  
30 per year;
- 31 (3) Attend and graduate from a participating South Dakota postsecondary institution with  
32 an elementary or secondary education degree which qualifies the student to teach in  
33 a critical teaching needs area in South Dakota; and
- 34 (4) Upon graduation, stay in South Dakota and teach in a critical teaching needs area for  
35 five years.

36 If factors beyond the control of a student who has been awarded a critical teaching needs  
37 scholarship prevent the student from meeting any of the requirements in subdivisions (1) to (3),  
38 the Critical Teaching Needs Scholarship Board may temporarily waive the requirements of those

subdivisions. The board may rescind a scholarship award if the student does not maintain eligibility as prescribed in those subdivisions.

Failure to fulfill the requirements of subdivision (4) shall result in the critical teaching needs scholarship being converted into an interest bearing loan. The board shall set the rate of interest, as allowed by law. The five years of employment referenced in subdivision (4) shall be fulfilled consecutively unless the board waives this requirement for good cause, and the five years of employment may be fulfilled at more than one school district in South Dakota.

Section 9. That chapter 13-55 be amended by adding thereto a NEW SECTION to read as follows:

The Department of Education may allocate funds appropriated by the Legislature or funds generated by gifts, donations, grants, or endowments for the purposes of sections 1 to 8, inclusive, of this Act, to students qualifying pursuant to sections 1 to 8, inclusive, of this Act.

The secretary of the Department of Education shall approve vouchers and the state auditor shall draw warrants to pay expenditures authorized by sections 1 to 8, inclusive, of this Act.

Section 10. The Board of Education may promulgate rules pursuant to chapter 1-26 to define areas of critical teaching need for the purposes of sections 1 to 8, inclusive, of this Act, to establish application requirements for the critical teaching needs scholarship, and to further accomplish the purposes of sections 1 to 8, inclusive, of this Act.

Section 11. Beginning in the 2014-2015 school year, there is hereby created the math and science teacher incentive program within the Department of Education to provide funds to public school districts for the purpose of providing rewards to attract certified teachers who teach in math and science subject areas in middle school and high school or who are certified with a math or science specialist endorsement which they are utilizing for any grade, kindergarten through twelve. By January 31, 2014, the South Dakota Board of Education shall promulgate rules pursuant to chapter 1-26 establishing which courses qualify as math and science courses for purposes of the program. For purposes of this Act, math and science courses are those courses established by the Board of Education pursuant to this section. For purposes of this Act, middle school is a school consisting of any combination of two or more consecutive grades, five to eight, inclusive, and high school is a school consisting of any combination of three or more consecutive grades, including ninth grade to twelfth grade, inclusive.

Section 12. Participation in the math and science teacher incentive program is voluntary for teachers, and incentive rewards are to supplement but not replace what a teacher receives under a contract between the teacher and the school district or a collective bargaining agreement between a district and the district's teachers. No collective bargaining agreement between a district and the district's teachers may limit the ability of a teacher to qualify for or receive an incentive reward. Nothing in sections 11 to 16, inclusive, of this Act is intended to create a contractual right or property right in the math and science teacher incentive program.

1 Section 13. The Department of Education shall provide application forms for teachers  
2 wishing to participate in the math and science teacher incentive program. A teacher wishing to  
3 participate in the program shall complete and sign the form and provide the form to the business  
4 office of the school district by the close of business on October first to be eligible for the  
5 program for that school year. A teacher wishing to participate shall submit a new application  
6 for each school year. Completed applications are a public record pursuant to chapter 1-27, but  
7 personal information in the applications may be redacted as allowed by that chapter.

8 Section 14. To be eligible for the math and science teacher incentive program, a teacher shall  
9 fulfill the following requirements:

- 10 (1) Comply with section 13 of this Act;
- 11 (2) Receive a distinguished rating or proficient rating, as referenced in section 38 of this  
12 Act, on the teacher's most recent evaluation;
- 13 (3) Teach math or science courses in middle school or high school for at least fifty  
14 percent of a full-time equivalent position's assignments submitted in the annual  
15 teacher data collection pursuant to § 13-3-51, and any rules promulgated pursuant  
16 thereto, and be currently certified with a middle school or high school endorsement  
17 to teach each course, or utilize a math or science specialist endorsement for any  
18 grade, kindergarten through twelve; and
- 19 (4) Be in full-time status for the entire school year.

20 Nothing in subdivision (3) shall entitle any teacher to receive more than the amount stipulated  
21 in section 16 of this Act.

22 Section 15. By September first of each year, the school board of each district shall submit to  
23 the Department of Education a copy of the application of each teacher eligible for the math and  
24 science teacher incentive program for the previous school year pursuant to the requirements of  
25 this Act. The Department of Education may require additional information from the district as  
26 necessary to verify each teacher's eligibility for the reward. The department may refuse to issue  
27 a reward for any teacher for whom the information required by this section is not provided by the  
28 deadline.

29 Section 16. The amount of the reward under the math and science teacher incentive program  
30 is two thousand eight hundred fifty dollars per eligible teacher to be distributed as described in  
31 this section. No later than October first of each year, at the same time that foundation program  
32 state aid is distributed to school districts pursuant to §§ 13-13-10.1 to 13-13-41, inclusive, the  
33 secretary of the Department of Education shall distribute funds for the math and science teacher  
34 incentive program for teachers that qualify pursuant to this Act. These funds shall be distributed  
35 in lump sum payments.

36 Subject to the requirements of this Act, the department shall pay to the school district two  
37 thousand eight hundred fifty dollars per eligible teacher in that district. Within thirty days of  
38 receipt from the department, the school district shall distribute the funds as follows:

- (1) Two thousand five hundred dollars shall be paid to each eligible teacher in the district; and
- (2) Three hundred fifty dollars may be retained by the district to pay the district's share of applicable federal taxes, the district's share of contribution to the South Dakota Retirement System, and administrative costs.

Section 17. Beginning in the 2014-2015 school year, there is hereby created the top teachers reward program within the Department of Education to provide funds to public school districts for the purpose of providing top teacher rewards for certified teachers.

Section 18. Participation in the top teachers reward program is voluntary for teachers, and such rewards shall supplement but not replace what a teacher receives under a contract between the teacher and the school district or a collective bargaining agreement between a district and the district's teachers. No collective bargaining agreement between a district and the district's teachers may limit the ability of a teacher to qualify for or receive a top teacher reward. Nothing in sections 17 to 25, inclusive, of this Act is intended to create a contractual right or property right in the top teachers reward program.

Section 19. In each school year, up to twenty percent of each school district's full-time equivalent certified teaching positions, as measured by the district's annual teacher data collection pursuant to § 13-3-51 and any rules promulgated pursuant to that section, shall be eligible to receive a top teacher reward, subject to the requirements of this Act. The Department of Education shall multiply the number of full-time equivalent certified teaching positions in the district by twenty percent. If this calculation results in a fraction, the maximum number of eligible positions may not exceed the next lowest whole number. If there are fewer than five full-time equivalent certified teaching positions in a school district, the maximum number of eligible positions shall be one.

Section 20. No later than May first of each year, at the same time that foundation program state aid is distributed to a school district pursuant to §§ 13-13-10.1 to 13-13-41, inclusive, the secretary of the Department of Education shall inform each school district of the number of eligible positions in that district for the current school year, based on the calculation in section 19 of this Act, and distribute to each school district five thousand seven hundred dollars per eligible position. These funds shall be distributed in lump sum payments. The school district shall retain these funds until distribution pursuant to section 21 of this Act.

Section 21. No later than September first of each year, the school district shall distribute the funds received pursuant to section 20 of this Act as follows:

- (1) Five thousand dollars shall be paid to each teacher selected for a top teacher reward pursuant to section 24 of this Act for the previous school year; and
- (2) Seven hundred dollars may be retained by the district to pay the district's share of applicable federal taxes, the district's share of contribution to the South Dakota Retirement System, and administrative costs.



Any funds received pursuant to section 20 of this Act which are not distributed according to this section shall be returned to the Department of Education within thirty days.

Section 22. The Department of Education shall provide application forms for teachers wishing to participate in the top teachers reward program. A teacher wishing to participate in the program shall complete and sign the form and provide the form to the business office of the school district by the close of business on October first to be eligible for the program for that school year. A teacher wishing to participate shall submit a new application for each school year. Completed applications are a public record pursuant to chapter 1-27, but personal information in the applications may be redacted pursuant to that chapter.

Section 23. A participating teacher shall be full-time and receive a distinguished rating, as referenced in section 38 of this Act, on the teacher's most recent evaluation to be eligible for a top teacher reward. In addition, a distinguished teacher's selection for the reward may be based on consideration of the following factors as determined by the school board:

- (1) Mentoring of less experienced teachers;
- (2) Curriculum development;
- (3) Assessment development;
- (4) Data analysis;
- (5) Service to the local district, state, or national committees or task forces;
- (6) Leadership in a professional learning community;
- (7) National board certification;
- (8) Other leadership activities or recognitions; and
- (9) Other additional criteria as determined by the school board.

Section 24. No later than August first of each year, the school board of each school district shall determine which participating teachers, if any, are selected to receive top teacher rewards for the previous school year according to the criteria in section 23 of this Act. The number of teachers selected may not exceed the number of eligible positions referenced in sections 19 and 20 of this Act.

Section 25. Department of Education may require each school district to provide any information necessary to verify the district's compliance with sections 20 to 24, inclusive, of this Act. Upon a finding of noncompliance, the department may require the district to return any funds distributed contrary to the requirements of this Act.

Section 26. Notwithstanding any other provisions of this Act, public school districts may opt out of the top teacher reward program by providing written notice to the Department of Education. The notice shall be approved by a majority of the school board and signed by the school board president. The department shall provide forms for this purpose. Beginning in 2014, the notice shall be postmarked no earlier than January first, and no later than January thirty-first, of each year in order to be effective for the next school year. The district shall provide a separate form for each school year for which the district desires to opt out. If a school district fails to follow the requirements of this section, the attempt to opt out is void, and the district shall comply with the requirements of the top teacher reward program.

1 If a district opts out pursuant to this section, the teachers employed in the district are not  
2 eligible to participate in the top teacher reward program. The district shall provide written notice  
3 to each certified teacher of the teacher's ineligibility for the program before executing a teaching  
4 contract with the teacher for the school year for which the opt out is effective.

5 School districts may not opt out of the math and science teacher incentive program  
6 established pursuant to this Act.

7 Section 27. If a school district opts out pursuant to section 26 of this Act, all funds which the  
8 district would have been eligible to receive for the top teacher program pursuant to this Act shall  
9 be redistributed as follows:

- 10 (1) To obtain the redistribution amount, the Department of Education shall calculate the  
11 number of positions that would have been eligible for the top teacher reward program  
12 in each opt out district pursuant to section 19 of this Act, and multiply that calculation  
13 by five thousand seven hundred dollars;
- 14 (2) No later than May first of each year, at the same time that foundation program state  
15 aid is distributed to a school district pursuant to §§ 13-13-10.1 to 13-13-41, inclusive,  
16 the department shall allocate the redistribution amount, on a pro rata basis, to each  
17 public school district that did not opt out of the top teacher reward program or is  
18 participating in a local teacher reward program pursuant to sections 28 to 35,  
19 inclusive, of this Act. Each district's pro rata share of the redistribution amount shall  
20 be based on the number of full-time equivalent certified teacher positions in the  
21 district, as measured by the district's annual teacher data collection pursuant to  
22 § 13-3-51 and any rules promulgated pursuant to that section; and
- 23 (3) No later than September first of each year, the redistribution amount received by each  
24 district pursuant to subdivision (2) shall be distributed equally among all teachers  
25 receiving top teacher rewards in the district pursuant to sections 17 to 25, inclusive,  
26 of this Act, or among all teachers receiving local teacher rewards pursuant to sections  
27 28 to 35, inclusive, of this Act, but each district may withhold an amount necessary  
28 to pay the district's share of applicable federal taxes, the district's share of  
29 contributions to the South Dakota Retirement System, and administrative costs. Any  
30 funds not distributed according to this subdivision shall be returned to the Department  
31 of Education within thirty days.

32 Section 28. Notwithstanding any other provision of this Act, a public school district may  
33 create a local teacher reward plan to act as a substitute for the top teacher reward program  
34 beginning in the 2014-2015 school year. If the local teacher reward plan is developed in  
35 compliance with sections 28 to 35, inclusive, of this Act, the district may utilize the local teacher  
36 reward plan to provide the district with the flexibility to use the funds that would otherwise be  
37 provided to the district through the top teachers reward program.

38 Participation in the local teacher reward plan is voluntary. Rewards shall supplement but not  
39 replace what a teacher receives under a contract between the teacher and the school district or  
40 a collective bargaining agreement between a district and the district's teachers. No collective  
41 bargaining agreement between a district and the district's teachers may limit the ability of a  
42 teacher to qualify for or receive a local teacher reward. Nothing in sections 28 to 35, inclusive,  
43 of this Act, is intended to create a contractual right or property right in local teacher rewards.

Teachers in the district may not participate in the top teacher reward program for any school year for which the district has adopted a local teacher reward plan. The district shall provide written notice to each certified teacher of the teacher's ineligibility for the top teacher reward program and provide a copy of the district's local teacher reward plan to each certified teacher before executing a teaching contract with the teacher for the school year for which the local teacher reward plan is effective.

Section 29. The local teacher reward plan shall reward certified teachers in the district based upon one or more of the following criteria:

- (1) Demonstrating an impact on student achievement;
- (2) Demonstrating teacher leadership; or
- (3) Market based needs of the school district based upon critical teaching area needs of the school district.

Section 30. There is hereby established the Local Teacher Reward Plan Advisory Council. The council shall provide input in developing one or more model local teacher reward plan applications based upon the criteria in section 29 of this Act. The work group shall be appointed by the secretary of education and consist of the following members:

- (1) A combination of six principals and superintendents: two from an elementary school, two from a middle school, and two from a high school;
- (2) Six teachers: two from an elementary school, two from a middle school, and two from a high school; and
- (3) Three school board members: one from a small school district, one from a medium-sized school district, and one from a large school district.

Section 31. The Board of Education shall promulgate rules, pursuant to chapter 1-26, establishing the application form for the local teacher reward plan, further guidelines for district applications based on the criteria in section 29 of this Act, a system to monitor whether each participating school district is complying with the local teacher reward plan, and penalties for noncompliance.

Section 32. There is hereby established the Local Teacher Reward Plan Oversight Board. The board shall consist of the following members:

- (1) One member of the Senate appointed by the president pro tempore of the Senate;
- (2) One member of the House of Representatives appointed by the speaker of the House of Representatives;
- (3) Two representatives of the business community appointed by the Governor;
- (4) One representative of an educational association appointed by the Governor;
- (5) One current or former teacher appointed by the Governor; and
- (6) The secretary of the Department of Education.

Section 33. A school district shall submit the local teacher reward plan application to the Department of Education no later than January thirty-first of each year, beginning in 2014, to be eligible to apply the local teacher reward plan to the upcoming school year.

1 By March fifteenth of each year, the Local Teacher Reward Plan Oversight Board shall  
2 review all applications to determine compliance with this Act, and any rules promulgated thereto.  
3 The board may request additional information from the district as part of the review of the  
4 application. By April first of each year, the board shall inform each district whether the district's  
5 local teacher reward plan has been approved for the upcoming school year. If the application is  
6 denied, the district may adopt a model plan established pursuant to section 30 of this Act or opt  
7 out pursuant to sections 26 and 27 of this Act.

8 Section 34. If a district's local teacher reward plan is approved, the Department of Education  
9 shall calculate the number of positions in the district that would have been eligible for the top  
10 teacher reward program pursuant to section 19 of this Act and multiply that calculation by five  
11 thousand seven hundred dollars. No later than May first of each year, at the same time that  
12 foundation program state aid is distributed to the district pursuant to §§ 13-13-10.1 to 13-13-41,  
13 inclusive, the secretary of the Department of Education shall distribute this amount to the district  
14 in a lump sum payment.

15 Section 35. No later than September first of each year, the district shall distribute the funds  
16 received pursuant to section 34 of this Act to each certified teacher selected for a reward under  
17 the local teacher reward program for the previous school year, but the district may withhold an  
18 amount necessary to pay the district's share of applicable federal taxes, the district's share of  
19 contributions to the South Dakota Retirement System, and administrative costs. Any funds not  
20 distributed according to this section shall be returned to the Department of Education within  
21 thirty days.

22 Section 36. A teacher may apply for both the math and science teacher incentive program and  
23 the top teachers reward program established pursuant to this Act or both the math and science  
24 teacher incentive program and the local teacher reward plan established pursuant to this Act.

25 Section 37. That § 13-42-34 be amended to read as follows:

26 13-42-34. Any public school district seeking state accreditation shall evaluate the  
27 performance of each certified teacher in years one ~~through to~~ three, inclusive, not less than  
28 annually, and each certified teacher in the fourth contract year or beyond, not less than every  
29 other year.

30 ~~Each~~ For the 2012-2013 school year and the 2013-2014 school year, each school district ~~shall~~  
31 may adopt procedures for evaluating the performance of certified teachers employed by the  
32 school district that:

- 33 (1) Are based on the minimum professional performance standards established by the  
34 Board of Education pursuant to § 13-42-33;
- 35 (2) Require multiple measures;
- 36 (3) Serve as the basis for programs to increase professional growth and development of  
37 certified teachers; and
- 38 (4) Include a plan of assistance for any certified teacher, who is in the fourth or  
39 subsequent year of teaching, and whose performance does not meet the school  
40 district's performance standards.

1 Section 38. That § 13-42-34 be amended to read as follows:

2 13-42-34. Any public school district seeking state accreditation shall evaluate the  
3 performance of each certified teacher in years one through three not less than annually, and each  
4 certified teacher in the fourth contract year or beyond, not less than every other year. Beginning  
5 in the 2014-2015 school year, each certified teacher shall be evaluated on an annual basis.

6 Each school district shall adopt the model evaluation instrument required by section 40 of  
7 this Act and procedures for evaluating the performance of certified teachers employed by the  
8 school district that:

- 9 (1) Are based on the minimum professional performance standards established by the  
10 Board of Education pursuant to § 13-42-33;
- 11 (2) Require multiple measures of performance as follows:
- 12 (a) Fifty percent of the evaluation of a teacher shall be based on quantitative  
13 measures of student growth, based on a single year or multiple years of data.  
14 This quantitative data shall be based on reports of student performance on state  
15 validated assessments established pursuant to § 13-3-55. For those teachers in  
16 grades and subjects for which there is no state-validated assessment for the  
17 quantitative portion of the evaluation, teachers shall demonstrate success in  
18 improving student achievement using objective measures, which can include  
19 portfolio assessments, end-of-course exams, or other district approved  
20 assessments which demonstrate student growth; and
- 21 (b) Fifty percent of the evaluation of a teacher shall be based on qualitative,  
22 observable, evidence-based characteristics of good teaching and classroom  
23 practices as further defined in the model evaluation instrument referenced in  
24 section 40 of this Act. Districts may collect additional evidence using any of the  
25 following if not required by the model evaluation instrument:
- 26 (i) Classroom drop-ins;  
27 (ii) Parent surveys;  
28 (iii) Student surveys;  
29 (iv) Portfolios; or  
30 (v) Peer review;
- 31 (3) Serve as the basis for programs to increase professional growth and development of  
32 certified teachers; and
- 33 (4) Include a plan of assistance for any certified teacher, ~~who is in the fourth or~~  
34 ~~subsequent year of teaching, and~~ whose performance does not meet the school  
35 district's performance standards; and
- 36 (5) Are based on the following four-tier rating system:
- 37 (a) Distinguished;  
38 (b) Proficient;  
39 (c) Basic; and  
40 (d) Unsatisfactory.

41 Section 39. The provisions of section 38 of this Act are effective July 1, 2014.

Section 40. That § 13-42-35 be amended to read as follows:

13-42-35. A work group appointed by the secretary of education shall provide input in developing the standards for defining the four-tier rating system required by section 38 of this Act and shall develop in developing a model evaluation instrument that ~~may~~ shall be used by school districts for the 2014-2015 school year and subsequent school years. The work group shall consist of the following members:

- (1) Six teachers: two from an elementary school, two from a middle school, and two from a high school;
- (2) Three principals: one from an elementary school, one from a middle school, and one from a high school;
- (3) Two superintendents;
- (4) Two school board members;
- (5) Four parents who have students in various levels of the K-12 system;
- (6) One representative of the South Dakota Education Association;
- (7) One representative of the School Administrators of South Dakota; and
- (8) One representative of the Associated School Boards of South Dakota.

Section 41. That chapter 13-42 be amended by adding thereto a NEW SECTION to read as follows:

Pursuant to chapter 1-26, the South Dakota Board of Education shall promulgate rules establishing standards for defining the four-tier rating system required by section 38 of this Act and adopting the model evaluation instrument referenced in section 40 of this Act.

Section 42. That chapter 3-18 be amended by adding thereto a NEW SECTION to read as follows:

Beginning with the 2014-2015 school year, the procedures for evaluation and the model evaluation instrument referenced in sections 38 to 41, inclusive, of this Act may not be the subject of any collective bargaining agreement between a district and the district's teachers.

Section 43. The Board of Education shall promulgate rules pursuant to chapter 1-26 to establish minimum professional performance standards for certified principals in South Dakota public schools, and to establish best practices for the evaluation of the performance of certified principals that shall be used by individual school districts. The South Dakota Board of Education shall promulgate rules pursuant to chapter 1-26 establishing standards for defining the four-tier rating system required by section 44 of this Act and adopting the model evaluation instrument referenced in section 45 of this Act.

Section 44. Beginning in the 2014-2015 school year, any public school district seeking state accreditation shall evaluate the performance of each certified principal not less than every other year.

Each school district shall adopt the model evaluation instrument required by section 45 of this Act and procedures for evaluating the performance of certified principals employed by the school district that:

- (1) Are based on the minimum professional performance standards established by the Board of Education pursuant to section 43 of this Act;
- (2) Require multiple measures of performance;
- (3) Serve as the basis for programs to increase professional growth and development of certified principals;
- (4) Include a plan of assistance for any certified principal whose performance does not meet the school district's performance standards; and
- (5) Are based on the following four-tier rating system:
  - (a) Distinguished;
  - (b) Proficient;
  - (c) Basic; and
  - (d) Unsatisfactory.

Section 45. A work group appointed by the secretary of education shall provide input in developing the standards referenced in section 43 of this Act, the four-tier rating system required by section 44 of this Act, and in developing a model instrument for principal evaluation that shall be used by school districts for the 2014-2015 school year and each school year thereafter. The work group shall consist of the following members:

- (1) Six principals: two from an elementary school, two from a middle school, and two from a high school;
- (2) Three teachers: one from an elementary school, one from a middle school, and one from a high school;
- (3) Two superintendents;
- (4) Two school board members;
- (5) Four parents who have students in various levels of the K-12 system;
- (6) One representative of the South Dakota Education Association;
- (7) One representative of the School Administrators of South Dakota; and
- (8) One representative of the Associated School Boards of South Dakota.

Section 46. All persons conducting teacher or principal evaluations required by sections 38 to 45, inclusive, of this Act shall participate in training conducted by the Department of Education before conducting the evaluations.

Section 47. That chapter 13-43 be amended by adding thereto a NEW SECTION to read as follows:

For purposes of this chapter, the term, tenured teacher, means a teacher who is in or beyond the fourth consecutive term of employment as a teacher with the school district prior to July 1, 2012. If, prior to July 1, 2012, the school district and the teacher have entered into a contract pursuant to §§ 13-43-4 and 13-43-5 for the teacher's fourth consecutive term of employment with the district or a subsequent consecutive term of employment with the district, then that teacher is a tenured teacher for purposes of this chapter. The term, nontenured teacher, means a teacher who is not yet in or beyond the fourth consecutive term of employment as a teacher with the

1 school district prior to July 1, 2012. Any teacher who is not in or beyond the fourth consecutive  
2 term of employment with the school district prior to July 1, 2012, may not acquire continuing  
3 contract status under this chapter. Nothing in this section or section 53 of this Act prohibits a  
4 school district from choosing to provide additional process to a nontenured teacher beyond what  
5 is provided for in this chapter.

6 Section 48. That § 13-43-6 be amended to read as follows:

7 13-43-6. The contract shall specify the date at or about which the school shall begin, the term  
8 of employment, the wages per month, and the time of payment ~~thereof; such of wages.~~ The  
9 contract shall be signed in duplicate and one copy filed in the office of the business manager and  
10 the other retained by the teacher. ~~Such~~ The contract may be issued covering any period of ~~years;~~  
11 ~~not to exceed three~~ employment up to one year, over which a teacher holds a certificate which  
12 ~~will~~ shall remain valid without renewal.

13 Section 49. That § 13-43-6.1 be amended to read as follows:

14 13-43-6.1. A tenured or nontenured teacher may be terminated, by the school board, at any  
15 time for just cause, including breach of contract, poor performance, incompetency, gross  
16 immorality, unprofessional conduct, insubordination, neglect of duty, or the violation of any  
17 policy or regulation of the school district. ~~A school district may nonrenew a teacher who is in or~~  
18 ~~beyond the fourth consecutive term of employment as a teacher with the school district pursuant~~  
19 ~~to § 13-43-6.3 for just cause, including breach of contract, poor performance, incompetency,~~  
20 ~~gross immorality, unprofessional conduct, insubordination, neglect of duty, or the violation of~~  
21 ~~any policy or regulation of the school district.~~

22 Section 50. That § 13-43-6.2 be amended to read as follows:

23 13-43-6.2. If nonrenewal of a tenured teacher is contemplated under ~~§ 13-43-6.1~~ § 13-43-6.3,  
24 the superintendent or chief executive officer shall give written notice of an intention to  
25 recommend nonrenewal to the teacher and the school board; a written statement of the reasons  
26 for the recommendation; access to the employment records of the teacher; the opportunity to the  
27 teacher for a hearing before the school board to present reasons in person or in writing why the  
28 nonrenewal should not occur; and the opportunity to be represented. The teacher shall request  
29 the hearing as provided in § 13-43-6.9. The school board shall conduct the hearing not sooner  
30 than fourteen days, nor later than forty-five days, after receipt of the teacher's request for hearing.  
31 The parties may waive the time limitations provided for in this section.

32 Section 51. That § 13-43-6.3 be amended to read as follows:

33 13-43-6.3. ~~Until a teacher is in or beyond the fourth consecutive term of employment as a~~  
34 ~~teacher with the school district, a~~ A school board may or may not renew the teacher's contract  
35 of a nontenured teacher. The superintendent or chief executive officer shall give written notice  
36 of nonrenewal by April fifteenth but is not required to give further process or a reason for  
37 nonrenewal.

38 ~~After a teacher is in or beyond the fourth consecutive term of employment as a teacher with~~  
39 ~~the school district, §§ 13-43-6.1 and 13-43-6.2 apply to any nonrenewal of the teacher's contract.~~



1 A school board may refuse to renew the teacher's contract of a tenured teacher for just cause,  
2 including breach of contract, poor performance, a rating of unsatisfactory on two consecutive  
3 evaluations pursuant to section 38 of this Act, incompetency, gross immorality, unprofessional  
4 conduct, insubordination, neglect of duty, or the violation of any policy or regulation of the  
5 school district. On or before April fifteenth, the superintendent or chief executive officer shall  
6 notify the tenured teacher and the school board in writing of the recommendation to not renew  
7 the teacher's contract.

8 Acceptance by ~~the~~ a tenured or nontenured teacher of an offer from the district to enter into  
9 a new contract with the teacher shall be in the manner specified in the offer. Failure of the teacher  
10 to accept the offer in the manner specified constitutes the termination of the existing contract  
11 between the teacher and the district at the end of its term.

12 Section 52. That § 13-43-6.4 be amended to read as follows:

13 13-43-6.4. Notwithstanding §§ ~~13-43-6.1 to §§ 13-43-6.2 and~~ 13-43-6.3, ~~inclusive~~, if a  
14 teacher's contract is not renewed due to a reduction in staff, only written notice is required, which  
15 shall be provided by the school board to the teacher by April fifteenth.

16 Section 53. That § 13-43-6.6 be amended to read as follows:

17 13-43-6.6. Although a collective bargaining agreement between a district and its teachers may  
18 set forth specific additional grounds for termination or set forth provisions as to the procedure  
19 or notice, no agreement may limit the district's right to terminate or refuse to renew the contract  
20 of a tenured or nontenured teacher for the grounds set forth in §§ 13-43-6.1 to 13-43-6.3,  
21 inclusive. No agreement may limit the protection afforded to a teacher under § 13-43-6.5.

22 Section 54. For purposes of this Act, the term, school year, means the regular school term as  
23 referenced in § 13-26-2.

24 Section 55. That § 13-3-73 be repealed.

25 ~~—13-3-73. There is hereby created the teacher compensation assistance program within the~~  
26 ~~Department of Education to provide funds to school districts for the purpose of assisting school~~  
27 ~~districts with teacher compensation. School districts are eligible to receive funds from the teacher~~  
28 ~~compensation assistance program based on their fall enrollment numbers. The department shall~~  
29 ~~provide four-fifths of the funds for the teacher compensation assistance program to each~~  
30 ~~participating school district. The Board of Education shall promulgate rules, pursuant to chapter~~  
31 ~~1-26, to create an oversight board appointed by the secretary of education for approval of~~  
32 ~~applications as well as guidelines for district applications based on district instructional goals,~~  
33 ~~market compensation or other specific district requirements as approved by the department.~~  
34 ~~Participation in the program is discretionary. District applications shall be approved by the local~~  
35 ~~board of education. The applications shall be reviewed by the teacher compensation assistance~~  
36 ~~program oversight board and shall be recommended to the Board of Education for final approval.~~  
37 ~~—The Legislature shall review the teacher compensation assistance program in 2012 to~~  
38 ~~determine its effectiveness and to determine whether to continue the program.~~

39 Section 56. That § 13-3-74 be repealed.

1     ~~13-3-74. The Teacher Compensation Assistance Program Oversight Board shall annually~~  
2     ~~monitor the progress of participating school districts with their teacher compensation assistance~~  
3     ~~plans, and submit its findings to the Board of Education.~~

4         Section 57. That § 13-3-74.1 be repealed.

5     ~~13-3-74.1. There is hereby established the Teacher Compensation Assistance Program~~  
6     ~~Advisory Council. The council shall be under the supervision of the Department of Education.~~  
7     ~~The speaker of the House of Representative shall appoint three members of the House of~~  
8     ~~Representatives to the council, including at least one member from each political party, and the~~  
9     ~~president pro tempore of the Senate shall appoint three members of the Senate to the council,~~  
10    ~~including at least one member from each political party. The Governor shall appoint the~~  
11    ~~remaining members of the council, including at least one teacher, one school administrator, and~~  
12    ~~one representative of a statewide education organization.~~

13        Section 58. That § 13-3-74.2 be repealed.

14    ~~13-3-74.2. The council shall examine how teacher quality and teacher salaries in the state can~~  
15    ~~be enhanced, and how the funds appropriated in fiscal year 2010 and in subsequent fiscal years~~  
16    ~~by the state for the teacher compensation assistance program established in § 13-3-73 can best~~  
17    ~~be utilized to assist in that effort. The council shall consider a variety of issues surrounding~~  
18    ~~teachers including market compensation, a tiered licensure system, a system for evaluating~~  
19    ~~teachers, mentoring and induction programs for teachers, and continuing contracts for teachers.~~

20        Section 59. That § 13-3-74.3 be repealed.

21    ~~13-3-74.3. The council shall complete its work and the secretary of education shall provide~~  
22    ~~its recommendations to the Governor and to the Executive Board of the Legislative Research~~  
23    ~~Council no later than November 15, 2008.~~

24        Section 60. That § 13-3-75 be repealed.

25    ~~13-3-75. The South Dakota Board of Education shall promulgate rules pursuant to chapter~~  
26    ~~1-26 establishing the application process; application timelines; the guidelines for district~~  
27    ~~applications based on school district instructional goals or market compensation; and a system~~  
28    ~~to monitor the progress of participating school districts with their compensation assistance plans~~  
29    ~~and to ensure that each participating school district is complying with the plan as submitted to~~  
30    ~~the board.~~

31        Section 61. That § 13-3-83.1 be repealed.

32    ~~13-3-83.1. Once all the school districts with approved applications have received their~~  
33    ~~funding pursuant to § 13-3-73, the Department of Education may set aside from any funds~~  
34    ~~remaining, a sum not to exceed one hundred thousand dollars from the teacher compensation~~  
35    ~~assistance program appropriation for the purpose of providing grants to educational cooperatives~~  
36    ~~and multi-district centers that employ teachers for public schools. The South Dakota Board of~~  
37    ~~Education may promulgate rules, pursuant to chapter 1-26, to establish the granting process.~~

1 Section 62. The following groups shall, no later than January 15, 2013, provide a progress  
2 report to the Legislature outlining the work accomplished:

- 3 (1) The Critical Teaching Needs Scholarship Board, established in section 2 of this Act;
- 4 (2) The Local Teacher Reward Plan Advisory Council established in section 30 of this  
5 Act;
- 6 (3) The Local Teacher Reward Plan Oversight Board established in section 32 of this Act;
- 7 (4) The teacher evaluation work group appointed pursuant to section 40 of this Act; and
- 8 (5) The principal evaluation work group appointed pursuant to section 45 of this Act."

9 1234cl

10  
11 On the previous amendment (1234cj), in Section 47, on lines 2,3,8, and 9, delete "July 1,  
12 2012" and insert "July 1, 2016".

13 On the last page, following Section 62, insert:

14 Section 63. Sections 47 to 53, inclusive, of this Act are effective on July 1, 2016.

15 1234ctb

16 On page 1, line 1, of the House engrossed bill, after "provide" insert "incentives to teach in  
17 critical need areas, to provide".

18 And that as so amended said bill do pass.

19 Respectfully submitted,  
20 J. Mark Johnston, Chair

21 Also MR. PRESIDENT:

22 The Committee on Legislative Procedure respectfully reports that SB 5, 11, 19, 39, 41, 56,  
23 57, 69, 107, 115, and 168 were delivered to his Excellency, the Governor, for his approval at  
24 9:50 a.m., February 23, 2012.

25 Respectfully submitted,  
26 Bob Gray, Chair

27 Also MR. PRESIDENT:

28 The Committee on Legislative Procedure respectfully reports that the Office of Engrossing  
29 and Enrolling has carefully compared SB 22, 37, 42, 46, 47, 70, 72, 82, 84, 90, 104, 128, 137,  
30 154, 176, 177, 189, and 196 and finds the same correctly enrolled.

31 Respectfully submitted,  
32 Bob Gray, Chair

**MESSAGES FROM THE HOUSE**

MR. PRESIDENT:

I have the honor to inform your honorable body that the House has concurred in Senate amendments to HB 1263.

Also MR. PRESIDENT:

I have the honor to transmit herewith HCR 1009 which has been adopted by the House and your concurrence is respectfully requested.

Also MR. PRESIDENT:

I have the honor to return herewith SB 22, 37, 46, 47, 70, 82, 84, 90, 104, 128, 137, 154, 176, 177, 189, and 196 which have passed the House without change.

Respectfully,  
Karen Gerdes, Chief Clerk

**MOTIONS AND RESOLUTIONS**

Sen. Rave moved that HB 1046 be placed to follow HB 1182 on today's calendar.

Which motion prevailed.

HCR 1009: A CONCURRENT RESOLUTION, Urging the federal government to honor tribal identification cards.

Was read the first time, the President waived the referral to committee, and placed HCR 1009 on the calendar of Friday, February 24, the 27<sup>th</sup> legislative day.

Sen. Hansen moved that the Senate do not concur in House amendments to SB 99 and that a committee of three on the part of the Senate be appointed to meet with a like committee on the part of the House to adjust the differences between the two houses.

Which motion prevailed and the President announced as such committee Sens. Hansen, Nygaard, and Bradford.

1 HCR 1011: A CONCURRENT RESOLUTION, Requesting that a United States Navy  
2 submarine be named the USS South Dakota.

3 Was read the second time.

4 Sen. Putnam moved that the Senate do concur in HCR 1011 as found on page 519 of the  
5 House Journal.

6 The question being on Sen. Putnam's motion that HCR 1011 be concurred in.

7 And the roll being called:

8 Yeas 33, Nays 0, Excused 2, Absent 0

9 Yeas:

10 Adelstein; Begalka; Bradford; Brown; Buhl; Frerichs; Fryslie; Gray; Hansen (Tom); Haverly;  
11 Heineman; Holien; Hunhoff (Jean); Johnston; Juhnke; Kraus; Krebs; Lederman; Maher; Nelson  
12 (Tom); Novstrup (Al); Nygaard; Olson (Russell); Peters; Putnam; Rampelberg; Rave; Rhoden;  
13 Schlekeway; Sutton; Tidemann; Tieszen; Vehle

14 Excused:

15 Cutler; Hundstad

16 So the motion having received an affirmative vote of a majority of the members-elect, the  
17 President declared the motion carried and HCR 1011 was concurred in.

## 18 CONSIDERATION OF REPORTS OF COMMITTEES

19 Sen. Olson moved that the reports of the Standing Committees on

20 Appropriations on HB 1206 as found on page 497 of the Senate Journal; also

21 Health and Human Services on HB 1171 as found on page 498 of the Senate Journal; also

22 State Affairs on HB 1138 as found on page 499 of the Senate Journal; also

23 State Affairs on HB 1196 as found on page 499 of the Senate Journal be adopted.

24 Which motion prevailed.

## 25 SECOND READING OF CONSENT CALENDAR ITEMS

26 HB 1156: FOR AN ACT ENTITLED, An Act to revise procedures and requirements  
27 relating to special assessments and the financing of local improvements.

1 Was read the second time.

2 The question being "Shall HB 1156 pass?"

3 And the roll being called:

4 Yeas 32, Nays 0, Excused 3, Absent 0

5 Yeas:

6 Adelstein; Begalka; Bradford; Brown; Buhl; Frerichs; Fryslie; Gray; Haverly; Heineman; Holien;  
7 Hunhoff (Jean); Johnston; Juhnke; Kraus; Krebs; Lederman; Maher; Nelson (Tom); Novstrup  
8 (Al); Nygaard; Olson (Russell); Peters; Putnam; Rampelberg; Rave; Rhoden; Schlekeway;  
9 Sutton; Tidemann; Tieszen; Vehle

10 Excused:

11 Cutler; Hansen (Tom); Hundstad

12 So the bill having received an affirmative vote of a majority of the members-elect, the  
13 President declared the bill passed and the title was agreed to.

14 HB 1178: FOR AN ACT ENTITLED, An Act to revise certain provisions relating to the  
15 disposal of local government property.

16 Was read the second time.

17 The question being "Shall HB 1178 pass?"

18 And the roll being called:

19 Yeas 32, Nays 0, Excused 3, Absent 0

20 Yeas:

21 Adelstein; Begalka; Bradford; Brown; Buhl; Frerichs; Fryslie; Gray; Haverly; Heineman; Holien;  
22 Hunhoff (Jean); Johnston; Juhnke; Kraus; Krebs; Lederman; Maher; Nelson (Tom); Novstrup  
23 (Al); Nygaard; Olson (Russell); Peters; Putnam; Rampelberg; Rave; Rhoden; Schlekeway;  
24 Sutton; Tidemann; Tieszen; Vehle

25 Excused:

26 Cutler; Hansen (Tom); Hundstad

27 So the bill having received an affirmative vote of a majority of the members-elect, the  
28 President declared the bill passed and the title was agreed to.

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Section 20. Whereas, section 18 of this Act is necessary for the support of the state government and its existing public institutions, an emergency is hereby declared to exist, and section 18 of this Act shall be in full force and effect from and after its passage and approval."

Which motion prevailed.

The question being "Shall HB 1059 pass as amended?"

And the roll being called:

Yeas 33, Nays 0, Excused 2, Absent 0

Yeas:

Adelstein; Begalka; Bradford; Brown; Buhl; Frerichs; Fryslie; Gray; Hansen (Tom); Haverly; Heineman; Holien; Hunhoff (Jean); Johnston; Juhnke; Kraus; Krebs; Lederman; Maher; Nelson (Tom); Novstrup (Al); Nygaard; Olson (Russell); Peters; Putnam; Rampelberg; Rave; Rhoden; Schlekeway; Sutton; Tidemann; Tieszen; Vehle

Excused:

Cutler; Hundstad

So the bill having received an affirmative vote of a two-thirds majority of the members-elect, the President declared the bill passed.

The question being on the title.

1059uta

Sen. Brown moved that the title to HB 1059 be amended as follows:

On page 1, line 1, of the House Commerce and Energy Committee engrossed bill, after "Code" insert ", to make an appropriation, and to declare an emergency".

Which motion prevailed.

HB 1117: FOR AN ACT ENTITLED, An Act to provide for the taking of muskrats by shooting under certain conditions.

Was read the second time.

The question being "Shall HB 1117 pass?"

And the roll being called:

Yeas 21, Nays 11, Excused 3, Absent 0



1 Yeas:

2 Adelstein; Bradford; Brown; Buhl; Frerichs; Gray; Heineman; Hunhoff (Jean); Juhnke; Krebs;  
3 Maher; Nelson (Tom); Novstrup (Al); Peters; Putnam; Rave; Rhoden; Schlekeway; Sutton;  
4 Tieszen; Vehle

5 Nays:

6 Begalka; Fryslie; Hansen (Tom); Haverly; Holien; Johnston; Kraus; Lederman; Nygaard;  
7 Rampelberg; Tidemann

8 Excused:

9 Cutler; Hundstad; Olson (Russell)

10 So the bill having received an affirmative vote of a majority of the members-elect, the  
11 President declared the bill passed and the title was agreed to.

12 HJR 1006: A JOINT RESOLUTION, Proposing and submitting to the electors at the next  
13 general election an amendment to Article XIII, sections 20 and 21 of the Constitution of the State  
14 of South Dakota, relating to the trust fund created from the proceeds of the state cement  
15 enterprise sales.

16 Was read the second time.

17 The question being "Shall HJR 1006 pass?"

18 And the roll being called:

19 Yeas 33, Nays 0, Excused 2, Absent 0

20 Yeas:

21 Adelstein; Begalka; Bradford; Brown; Buhl; Frerichs; Fryslie; Gray; Hansen (Tom); Haverly;  
22 Heineman; Holien; Hunhoff (Jean); Johnston; Juhnke; Kraus; Krebs; Lederman; Maher; Nelson  
23 (Tom); Novstrup (Al); Nygaard; Olson (Russell); Peters; Putnam; Rampelberg; Rave; Rhoden;  
24 Schlekeway; Sutton; Tidemann; Tieszen; Vehle

25 Excused:

26 Cutler; Hundstad

27 So the resolution having received an affirmative vote of a majority of the members-elect,  
28 the President declared the resolution passed and the title was agreed to.

29 HB 1017: FOR AN ACT ENTITLED, An Act to authorize the Bureau of Administration  
30 to construct a maintenance shop in Pierre, to make an appropriation therefor, and to declare an  
31 emergency.

1 Was read the second time.

2 The question being "Shall HB 1017 pass?"

3 And the roll being called:

4 Yeas 32, Nays 1, Excused 2, Absent 0

5 Yeas:

6 Adelstein; Begalka; Bradford; Brown; Buhl; Frerichs; Fryslie; Gray; Hansen (Tom); Haverly;  
7 Heineman; Holien; Hunhoff (Jean); Johnston; Juhnke; Kraus; Krebs; Lederman; Nelson (Tom);  
8 Novstrup (Al); Nygaard; Olson (Russell); Peters; Putnam; Rampelberg; Rave; Rhoden;  
9 Schlekeway; Sutton; Tidemann; Tieszen; Vehle

10 Nays:

11 Maher

12 Excused:

13 Cutler; Hundstad

14 So the bill having received an affirmative vote of a two-thirds majority of the members-  
15 elect, the President declared the bill passed and the title was agreed to.

16 HB 1051: FOR AN ACT ENTITLED, An Act to authorize the South Dakota Building  
17 Authority and the Board of Regents to implement the long-term capital project request of the  
18 Board of Regents providing for the demolition, construction, remodeling, or renovation of  
19 various structures on the campuses of the state's universities and to make appropriations therefor.

20 Was read the second time.

21 The question being "Shall HB 1051 pass as amended?"

22 And the roll being called:

23 Yeas 33, Nays 0, Excused 2, Absent 0

24 Yeas:

25 Adelstein; Begalka; Bradford; Brown; Buhl; Frerichs; Fryslie; Gray; Hansen (Tom); Haverly;  
26 Heineman; Holien; Hunhoff (Jean); Johnston; Juhnke; Kraus; Krebs; Lederman; Maher; Nelson  
27 (Tom); Novstrup (Al); Nygaard; Olson (Russell); Peters; Putnam; Rampelberg; Rave; Rhoden;  
28 Schlekeway; Sutton; Tidemann; Tieszen; Vehle

29 Excused:

30 Cutler; Hundstad

1        So the bill having received an affirmative vote of a two-thirds majority of the members-  
2 elect, the President declared the bill passed and the title was agreed to.

3        HB 1164: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the sale  
4 of certain surplus property in Yankton County.

5        Was read the second time.

6        The question being "Shall HB 1164 pass as amended?"

7        And the roll being called:

8        Yeas 33, Nays 0, Excused 2, Absent 0

9        Yeas:

10 Adelstein; Begalka; Bradford; Brown; Buhl; Frerichs; Fryslie; Gray; Hansen (Tom); Haverly;  
11 Heineman; Holien; Hunhoff (Jean); Johnston; Juhnke; Kraus; Krebs; Lederman; Maher; Nelson  
12 (Tom); Novstrup (Al); Nygaard; Olson (Russell); Peters; Putnam; Rampelberg; Rave; Rhoden;  
13 Schlekeway; Sutton; Tidemann; Tieszen; Vehle

14        Excused:

15 Cutler; Hundstad

16        So the bill having received an affirmative vote of a majority of the members-elect, the  
17 President declared the bill passed and the title was agreed to.

18        HB 1199: FOR AN ACT ENTITLED, An Act to revise certain provisions related to the  
19 distribution of funds to sparse school districts.

20        Was read the second time.

21        The question being "Shall HB 1199 pass as amended?"

22        And the roll being called:

23        Yeas 31, Nays 1, Excused 3, Absent 0

24        Yeas:

25 Adelstein; Begalka; Bradford; Brown; Buhl; Frerichs; Fryslie; Gray; Hansen (Tom); Haverly;  
26 Heineman; Holien; Hunhoff (Jean); Johnston; Juhnke; Kraus; Krebs; Lederman; Maher;  
27 Novstrup (Al); Nygaard; Olson (Russell); Putnam; Rampelberg; Rave; Rhoden; Schlekeway;  
28 Sutton; Tidemann; Tieszen; Vehle

1 Nays:

2 Peters

3 Excused:

4 Cutler; Hundstad; Nelson (Tom)

5 So the bill having received an affirmative vote of a majority of the members-elect, the  
6 President declared the bill passed and the title was agreed to.

7 HB 1230: FOR AN ACT ENTITLED, An Act to modify the publication requirements  
8 regarding the application for a well driller license or a well pump installer license.

9 Was read the second time.

10 The question being "Shall HB 1230 pass as amended?"

11 And the roll being called:

12 Yeas 18, Nays 13, Excused 4, Absent 0

13 Yeas:

14 Adelstein; Begalka; Bradford; Brown; Frerichs; Frysliie; Gray; Hansen (Tom); Kraus; Lederman;  
15 Maher; Novstrup (Al); Olson (Russell); Rampelberg; Rave; Schlekeway; Tieszen; Vehle

16 Nays:

17 Buhl; Haverly; Heineman; Holien; Hunhoff (Jean); Juhnke; Krebs; Nygaard; Peters; Putnam;  
18 Rhoden; Sutton; Tidemann

19 Excused:

20 Cutler; Hundstad; Johnston; Nelson (Tom)

21 So the bill having received an affirmative vote of a majority of the members-elect, the  
22 President declared the bill passed.

23 The question being on the title.

24 1230tta

25 Sen. Adelstein moved that the title to HB 1230 be amended as follows:

26 On page 1, line 1, of the Senate Agriculture and Natural Resources Committee engrossed  
27 bill, delete "regarding the" and insert "for water rights applications."

1 On page 1, delete line 2.

2 Which motion prevailed and the title was so amended..

3 HB 1130: FOR AN ACT ENTITLED, An Act to revise the fee schedule for certain  
4 documents filed with the county register of deeds, to create a county and statewide fund for the  
5 purpose of modernizing and preserving records, and to distribute certain revenue.

6 Was read the second time.

7 1130fe

8 Sen. Tieszen moved that HB 1130 be amended as follows:

9 On page 6 of the House Local Government Committee engrossed bill, delete lines 13 to 24,  
10 inclusive.

11 Delete pages 7 and 8, inclusive

12 Which motion lost.

13 The question being "Shall HB 1130 pass as amended?"

14 And the roll being called:

15 Yeas 32, Nays 1, Excused 2, Absent 0

16 Yeas:

17 Adelstein; Begalka; Bradford; Brown; Buhl; Frerichs; Fryslie; Gray; Hansen (Tom); Haverly;  
18 Heineman; Holien; Hunhoff (Jean); Johnston; Juhnke; Kraus; Krebs; Lederman; Maher; Nelson  
19 (Tom); Novstrup (Al); Nygaard; Olson (Russell); Putnam; Rampelberg; Rave; Rhoden;  
20 Schlekeway; Sutton; Tidemann; Tieszen; Vehle

21 Nays:

22 Peters

23 Excused:

24 Cutler; Hundstad

25 So the bill having received an affirmative vote of a majority of the members-elect, the  
26 President declared the bill passed and the title was agreed to.

1 Sen. Olson moved that HB 1254 be immediately considered.

2 Which motion prevailed and HB 1254 was up for immediate consideration.

3 HB 1254: FOR AN ACT ENTITLED, An Act to revise certain provisions pertaining to the  
4 decision of a pregnant mother considering termination of her relationship with her child by an  
5 abortion, to establish certain procedures to insure that such decisions are voluntary, uncoerced,  
6 and informed, and to revise certain causes of action for professional negligence relating to  
7 performance of an abortion.

8 Was read the second time.

9 1254rd

10 Sen. Adelstein moved that HB 1254 be further amended as follows:

11 On page 3, line 20, of the House Judiciary Committee engrossed bill, overstrike "physically  
12 and personally meets with the pregnant mother,".

13 On page 3, line 21, after "with" overstrike "her" and insert "the pregnant mother, by  
14 telephone or in person".

15 Which motion lost.

16 1254rf

17 Sen. Buhl moved that HB 1254 be further amended as follows:

18 On page 3 of the House Judiciary Committee engrossed bill, delete lines 20 to 24, inclusive,  
19 and insert:

20 "counselor, or licensed psychologist, or licensed certified social worker, or licensed nurse, or  
21 licensed marriage and family therapist, or physician and only after the licensed counselor, or  
22 licensed psychologist, or licensed certified social worker, or licensed nurse, or licensed marriage  
23 and family therapist, or physician physically and personally meets with the pregnant mother,  
24 consults with her, and performs an assessment of her medical and personal circumstances. Only  
25 after the licensed counselor, or licensed psychologist, or licensed certified social worker, or  
26 licensed nurse, or licensed marriage and family therapist, or physician completes the consultation  
27 and assessment complying with the provisions of §§ 34-23A-53 to 34-23A-62, inclusive, may  
28 the licensed counselor, or licensed psychologist, or licensed certified social worker, or licensed  
29 nurse, or licensed marriage and family therapist, or physician schedule a surgical or medical  
30 abortion, but in no instance may the licensed counselor, or licensed psychologist, or licensed  
31 certified social worker, or licensed nurse, or licensed marriage and family therapist, or physician  
32 schedule such surgical or medical abortion to take".

1 On page 4, line 3, before "physician" insert "licensed counselor, or licensed psychologist,  
2 or licensed certified social worker, or licensed nurse, or licensed marriage and family therapist,  
3 or".

4 On page 4, line 6, overstrike "complying with" and insert "ensuring that".

5 On page 4, delete lines 7 to 9, inclusive, and insert:

6 "inclusive, as they pertain to the initial consultation, and ~~only after complying with~~ the provisions  
7 of subdivisions 34-23A-10.1(1) and (2) have been complied with as stated herein. During the  
8 initial consultation between the licensed counselor, or licensed psychologist, or licensed certified  
9 social worker, or licensed nurse, or licensed marriage and family therapist, or physician and the  
10 pregnant mother, prior to scheduling a surgical or medical abortion, the licensed counselor, or  
11 licensed psychologist, or licensed certified social worker, or licensed nurse, or licensed marriage  
12 and family therapist, or physician shall:".

13 On page 4, line 13, before "physician" insert "licensed counselor, or licensed psychologist,  
14 or licensed certified social worker, or licensed nurse, or licensed marriage and family therapist,  
15 or".

16 On page 4, line 14, before "physician" insert "licensed counselor, or licensed psychologist,  
17 or licensed certified social worker, or licensed nurse, or licensed marriage and family therapist,  
18 or".

19 On page 6, line 3, after "The" insert "licensed counselor, or licensed psychologist, or  
20 licensed certified social worker, or licensed nurse, or licensed marriage and family therapist, or".

21 On page 6, line 8, after "The" insert "licensed counselor, or licensed psychologist, or  
22 licensed certified social worker, or licensed nurse, or licensed marriage and family therapist, or".

23 On page 6, line 18, after "The" insert "licensed counselor, or licensed psychologist, or  
24 licensed certified social worker, or licensed nurse, or licensed marriage and family therapist, or".

25 On page 6, line 20, after "the" insert "licensed counselor, or licensed psychologist, or  
26 licensed certified social worker, or licensed nurse, or licensed marriage and family therapist, or".

27 On page 6, delete line 22, and insert "so that the licensed counselor, or licensed  
28 psychologist, or licensed certified social worker, or licensed nurse, or licensed marriage and  
29 family therapist, or physician can certify that the licensed counselor, or licensed psychologist,  
30 or licensed certified social worker, or licensed nurse, or licensed marriage and family therapist,  
31 or physician has made a reasonable".

32 On page 7, line 2, before "physician" insert "licensed counselor, or licensed psychologist,  
33 or licensed certified social worker, or licensed nurse, or licensed marriage and family therapist,  
34 or".

On page 7, line 3, before "physician" insert "licensed counselor, or licensed psychologist, or licensed certified social worker, or licensed nurse, or licensed marriage and family therapist, or".

On page 7, line 4, before "physician" insert "licensed counselor, or licensed psychologist, or licensed certified social worker, or licensed nurse, or licensed marriage and family therapist, or".

On page 7, line 7, before "physician" insert "licensed counselor, or licensed psychologist, or licensed certified social worker, or licensed nurse, or licensed marriage and family therapist, or".

On page 7, line 16, delete everything after "." .

On page 7, delete lines 17 and 18.

Which motion lost.

1254re

Sen. Buhl moved that HB 1254 be further amended as follows:

On page 5, line 7, of the House Judiciary Committee engrossed bill, after "mother," insert "if she chooses to obtain a consultation at a pregnancy help center,".

On page 9, line 4, delete "required" and insert "permitted".

On page 9, line 5, delete "The" and insert "If the pregnant mother chooses to go to a pregnancy help center, the".

Sen. Adelstein requested a roll call vote.

Which request was supported.

The question being on Sen. Buhl's motion that HB 1254 be further amended.

And the roll being called:

Yeas 9, Nays 23, Excused 3, Absent 0

Yeas:

Adelstein; Bradford; Buhl; Frerichs; Nelson (Tom); Nygaard; Sutton; Tidemann; Tieszen

Nays:

Begalka; Brown; Fryslie; Gray; Hansen (Tom); Haverly; Heineman; Holien; Hunhoff (Jean); Johnston; Juhnke; Kraus; Krebs; Lederman; Maher; Novstrup (Al); Olson (Russell); Putnam; Rampelberg; Rave; Rhoden; Schlekeway; Vehle



26 So the bill having received an affirmative vote of a majority of the members-elect, the  
27 President declared the bill passed and the title was agreed to.

1 Sen. Olson moved that the balance of the calendar including HB 1179, 1247, 1187, 1182,  
2 and 1046 be deferred to Friday, February 24, the 27<sup>th</sup> legislative day.

3 Which motion prevailed.

## 4 SIGNING OF BILLS

5 The President publicly read the title to

6 SB 22: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the  
7 vacation or the change of location of county and township highways on school and public lands.

8 SB 37: FOR AN ACT ENTITLED, An Act to make an appropriation from the coordinated  
9 natural resources conservation fund to the State Conservation Commission and to declare an  
10 emergency.

11 SB 42: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding habeas  
12 corpus.

13 SB 46: FOR AN ACT ENTITLED, An Act to authorize the Board of Regents to purchase  
14 an airport structure for use by South Dakota State University and to make an appropriation  
15 therefor.

16 SB 47: FOR AN ACT ENTITLED, An Act to increase the authorized square footage for the  
17 motor pool building at South Dakota State University, to make an appropriation therefor, and to  
18 declare an emergency.

19 SB 70: FOR AN ACT ENTITLED, An Act to revise the procedures for filing referred laws,  
20 initiated constitutional amendments, and initiated measures and to revise certain election  
21 provisions and campaign finance requirements for referred laws, initiated constitutional  
22 amendments, and initiated measures.

23 SB 72: FOR AN ACT ENTITLED, An Act to regulate persons offering speech-language  
24 pathology to the public.

25 SB 82: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the  
26 unclaimed property trust fund.

27 SB 84: FOR AN ACT ENTITLED, An Act to allow for the reimbursement of travel  
28 expenses during the recruitment of certain professional staff.

29 SB 90: FOR AN ACT ENTITLED, An Act to establish a fee for payments returned to the  
30 Office of the Secretary of State due to insufficient funds and to provide for the distribution of the  
31 fee.

1 SB 104: FOR AN ACT ENTITLED, An Act to revise certain provisions concerning the  
2 investment of public funds.

3 SB 128: FOR AN ACT ENTITLED, An Act to revise certain provisions concerning  
4 elections.

5 SB 137: FOR AN ACT ENTITLED, An Act to revise certain provisions concerning the  
6 application for absentee voting.

7 SB 154: FOR AN ACT ENTITLED, An Act to revise certain statutes pertaining to persons  
8 required to report child abuse and neglect.

9 SB 176: FOR AN ACT ENTITLED, An Act to establish a program to assist rural health  
10 care facilities in recruiting certain health care professionals and to repeal certain provisions  
11 regarding recruitment incentive payments for health care professionals.

12 SB 177: FOR AN ACT ENTITLED, An Act to establish a program to assist rural  
13 communities to recruit certain health care professionals and to repeal certain provisions regarding  
14 the physician, the midlevel, and the dentist tuition reimbursement programs.

15 SB 189: FOR AN ACT ENTITLED, An Act to provide a designation on certain nondriver  
16 identification cards, driver licenses, and permits that the card holders or licensees are honorably  
17 discharged veterans.

18 SB 196: FOR AN ACT ENTITLED, An Act to allow for the redistribution of existing  
19 nursing facility beds.

20 HB 1047: FOR AN ACT ENTITLED, An Act to revise certain provisions relating to  
21 military law.

22 HB 1050: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding  
23 National Guard discipline and courts-martial.

24 HB 1063: FOR AN ACT ENTITLED, An Act to repeal certain statutes related to the  
25 testimony of sex offense victims and to evidence of a victim's prior sexual conduct and to  
26 establish the rationale and effect of the repeal.

27 HB 1065: FOR AN ACT ENTITLED, An Act to repeal the requirement that the Unified  
28 Judicial System set forth a schedule for all fees paid directly to court reporters in its annual  
29 consolidated budget.

30 HB 1079: FOR AN ACT ENTITLED, An Act to revise certain publication date citations  
31 for references to the International Building Code.

32 HB 1088: FOR AN ACT ENTITLED, An Act to revise certain requirements for charging  
33 and collecting certain fees for confining certain people in the county jail.

1 HB 1128: FOR AN ACT ENTITLED, An Act to require the Board of Education to conduct  
2 public hearings before adopting certain standards.

3 HB 1153: FOR AN ACT ENTITLED, An Act to revise and clarify certain provisions  
4 relating to the revocation of fur dealer licenses.

5 HB 1192: FOR AN ACT ENTITLED, An Act to amend certain limited liability company  
6 language.

7 HB 1195: FOR AN ACT ENTITLED, An Act to authorize the collection of fees for certain  
8 educational programming and services, and to declare an emergency.

9 HB 1202: FOR AN ACT ENTITLED, An Act to repeal certain provisions regarding  
10 reckless and unsafe driving.

11 HB 1212: FOR AN ACT ENTITLED, An Act to revise certain terms regarding tort liability.

12 And signed the same in the presence of the Senate.

13 Sen. Olson moved that the Senate do now recess until 5:30 p.m., which motion prevailed  
14 and at 5:02 p.m., the Senate recessed.

15 **RECESS**

16 The Senate reconvened at 5:30 p.m., the President presiding.

17 Sen. Rhoden moved that the Senate do now adjourn, which motion prevailed and at  
18 5:35 p.m. the Senate adjourned.

19 Fee Jacobsen, Secretary